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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re F.P., a Person Coming Under the
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

F.P.,

Defendant and Appellant.

G047204

(Super. Ct. No. DL040527)

O P I N I O N

Appeal from an order of the Superior Court of Orange County,
Douglas Hatchimonji, Judge. Affirmed.

Sylvia Whatley Beckham, under appointment by the Court of Appeal, for
Defendant and Appellant.

No appearance for Plaintiff and Respondent.

* * *

1. *Introduction*

In the dispositional order, the juvenile court sustained the allegation charging F.P. with one count of misdemeanor battery (Pen. Code, § 242). Pursuant to Welfare and Institutions Code section 725, subdivision (a), the court placed F.P. on probation, with terms and conditions, for a period of six months without adjudging him to be a ward of the court.

F.P. timely appealed from the dispositional order. Appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), setting forth the facts of the case and requesting that we review the entire record. Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*), appointed counsel suggested we consider two issues, which we address in section 4. F.P. was granted 30 days to file written arguments in his own behalf, but did not file anything.

We have examined the entire record and counsel's *Wende/Anders* brief. We looked for issues other than those raised by counsel, but after considering the entire record, we have found no reasonably arguable issue. (*Wende, supra*, 25 Cal.3d 436.) We therefore affirm.

2. *Procedural History*

In June 2011, a petition to declare F.P. a ward of the court was filed. The petition alleged F.P. committed one count of misdemeanor assault and one count of misdemeanor battery against "Jane Doe" (some capitalization omitted), identified in the detention report as F.P.'s mother (Mother). The juvenile court denied F.P.'s request to be released on home supervision program (HSP), and ordered that F.P. be removed from Mother's custody and detained in juvenile hall in the custody of the probation department.

In July 2011, the juvenile court conducted a detention hearing pursuant to *In re Dennis H.* (1971) 19 Cal.App.3d 350, at the conclusion of which the court released

F.P. to Mother's custody. Later that month, the court placed F.P. on informal probation for six months pursuant to Welfare and Institutions Code section 654. Probation was made subject to terms and conditions, including attendance at school unless excused. The court stated that "[a]s long as you are attending school on a regular basis and there [are] no new law violations then this case will be dismissed on January 18th[, 2012]."

On January 18, 2012, the juvenile court terminated F.P.'s informal probation on the ground F.P. had not complied with the terms and conditions of probation. After several continuances, a hearing on the petition was set for May 24, 2012. F.P. did not appear on that date and a warrant was issued for his arrest. F.P. turned himself in to the court on June 14, and the court recalled the warrant. The court found that F.P. was in urgent need of protection and likely to flee the jurisdiction, and that continued residence with Mother was contrary to his welfare. The court placed F.P. in the custody of the probation department but released him to Mother's custody on HSP pending a hearing on the petition. HSP was terminated on June 25, and F.P. was ordered detained in juvenile hall pending a hearing on the petition.

The hearing on the petition was conducted on June 27, 28, and 29, and July 9, 2012. On June 29, the juvenile court ordered F.P. released to Mother's custody on HSP. At the conclusion of the hearing on July 9, 2012, the juvenile court sustained the petition only on the count for misdemeanor battery and found the maximum term of confinement to be six months. Pursuant to Welfare and Institutions Code section 725, subdivision (a), the court placed F.P. on probation, with terms and conditions, without adjudging him to be a ward of the court. HSP was terminated.

3. *Facts*

On June 25, 2011 at about 7:00 a.m., Mother was sitting on a couch at her home in Orange County when F.P., then age 13, returned after being out all night. Mother asked F.P. where and with whom he had been. F.P. did not respond and went

into his bedroom. Mother followed him and continued to ask where he had been. F.P. still did not respond.

As F.P. was falling asleep, Mother took away his blanket and told him he was not going to sleep. F.P. sat on the bed, and Mother asked him yet again where he had been. F.P. told her it was none of her business. Mother got close to F.P. and slapped him on the cheek. F.P. jumped off the bed, told Mother he was going to go “back to the street,” and tried to leave the bedroom. Mother blocked the door, pulled F.P. by his T-shirt, and told him he was not going out again. F.P. turned around and grabbed her wrist for a few seconds. As Mother tried to pull away, F.P. grabbed her just below the neck with both hands and told her to move out of the way and leave him alone. Mother let go of F.P.’s T-shirt and sat down on the bed.

As F.P. packed clothing into his book bag, he threw a shirt at Mother and called her a “pendejo” (translated as “idiot”). She became angry and struck F.P. two to four times with a plastic hanger. F.P. took the hanger, broke it, and threw it down away from Mother.

F.P. dialed 911 and slid the telephone to Mother to speak with the operator. Mother refused the telephone. Instead, F.P.’s older brother spoke with the 911 operator. Police officers arrived and spoke with Mother and F.P, who had several reddish marks on his left forearm from being struck with the hanger. The marks were two to four inches in length and slightly raised.

4. Analysis of Suggested Issues in Counsel’s Wende/Anders Brief

Appointed counsel suggests two potential issues: (1) “Did the minor have the right to use force in self-defense of his mother’s slapping him and blocking the door?” and (2) “Did the Juvenile Court err in the disposition of declaring the minor a non-ward and placing him on formal probation for a period of six months?” We conclude neither potential issue has merit.

a. *Potential Issue No. 1*

A defendant is not guilty of an offense if the defendant uses force against the other in lawful self-defense. (Pen. Code, §§ 692, 693; see also CALCRIM No. 3470.) To invoke self-defense, the defendant must reasonably believe the use of force was necessary to defend against imminent danger and may use no more force than was reasonably necessary to defend against that danger. (*People v. Hernandez* (2011) 51 Cal.4th 733, 747; *People v. Humphrey* (1996) 13 Cal.4th 1073, 1083; CALCRIM No. 3470.)

The juvenile court found that F.P. did not reasonably respond when Mother slapped him. The court stated, “the reasonable response . . . to his mother’s initial slapping him was to remain at home” and F.P. had “a general obligation to obey his parents.” The evidence supported those findings. By slapping F.P. and seeking to confine him to his room, Mother was imposing reasonable discipline and punishment. (*People v. Checketts* (1999) 71 Cal.App.4th 1190, 1194 [reasonable acts of discipline may include confinement to a particular location, such as sending a child to his or her room]; *People v. Whitehurst* (1992) 9 Cal.App.4th 1045, 1050 [“A parent has a right to reasonably discipline by punishing a child and may administer reasonable punishment”].) F.P.’s use of force in grabbing Mother’s wrist and neck was not a reasonable response under the circumstances and was far greater than necessary for F.P. to defend himself.

b. *Potential Issue No. 2*

We review a juvenile court’s dispositional order in a delinquency proceeding for abuse of discretion. (*In re Robert H.* (2002) 96 Cal.App.4th 1317, 1329-1330; *In re Todd W.* (1979) 96 Cal.App.3d 408, 416.) In determining the appropriate disposition, the juvenile court must consider the circumstances and gravity of the offense and the minor’s previous delinquent history. (*In re G.C.* (2007) 157 Cal.App.4th 405, 409.)

The juvenile court placed F.P. on probation for a period of six months without adjudging him to be a ward of the court. Welfare and Institutions Code section 725, subdivision (a)¹ authorizes this disposition. The terms and conditions of F.P.'s probation are lawful and include those required by section 725, subdivision (a). Nothing in the record suggests the juvenile court did not consider all of the appropriate circumstances. We find no abuse of discretion.

5. Disposition

The dispositional order is affirmed.

FYBEL, J.

WE CONCUR:

RYLAARSDAM, ACTING P. J.

BEDSWORTH, J.

¹ The first sentence of Welfare and Institutions Code section 725, subdivision (a) provides: "If the court has found that the minor is a person described by Section 601 or 602, by reason of the commission of an offense other than any of the offenses set forth in Section 654.3, it may, without adjudging the minor a ward of the court, place the minor on probation, under the supervision of the probation officer, for a period not to exceed six months."